

DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

FILE: B-213258

DATE: February 9, 1984

MATTER OF: The Library Store, Ltd.

DIGEST:

1. A bid in a brand name or equal solicitation which fails to indicate conformance with a salient characteristic is nonresponsive and must be rejected, and cannot be amended by information furnished after bid opening in order to make it responsive.
2. Cancellation of an IFB is appropriate where all bids received have been properly rejected as nonresponsive.

The Library Store, Ltd. protests the cancellation of invitation for bids (IFB) No. JCUSA-83-B-0072 issued by the Department of Justice on a brand name or equal basis for the acquisition of library shelving units. The Library Store complains that the agency improperly rejected its offer of an allegedly equal product as nonresponsive, and that the solicitation should not have been canceled in the presence of at least one conforming bid. We deny the protest.

The IFB included two pages of salient characteristics for the brand name shelving which offered equal products had to meet. Bidders were advised that the government's decision as to whether an offered equal product conformed to the salient characteristics would be based on information furnished by the bidder or reasonably available to the purchasing activity. The IFB therefore cautioned bidders to furnish all descriptive material necessary for the purchasing activity to evaluate the offer against the salient characteristics, and to establish exactly what the bidder proposed to furnish.

Three bids were received, but all of them were rejected as nonresponsive, and the contracting officer accordingly canceled the solicitation. The Library Store's bid was rejected because it failed to indicate that the shelves of its offered shelving units, when fully loaded at

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50 pounds per square foot, would not deflect more than 1/8 inch per shelf, which was one of the salient characteristics listed in the IFB. The problem with the bid was that the descriptive literature submitted did not indicate any load capacity for the shelves, but the bid instead was accompanied by a letter from the item manufacturer which stated that "the 36" wide flat shelf (L-3612-S) will hold the weight of 100 pounds per square foot, without deflection." The contracting officer did not view this letter as an adequate demonstration of compliance with the noted salient characteristic, since the firm had offered to furnish item No. L-101-3721 in its bid, not the item number specified in the letter, and she therefore rejected the bid. After bid opening, in response to the agency's rejection, The Library Store informed the contracting officer that item No. L-3612-S was the shelf only, a component part of the larger shelving unit identified as L-101-3721 in the bid.

The Library Store argues that its offer exceeded the requirements of the IFB so that it should not have been rejected, and that the subsequent cancellation was therefore improper. The contracting agency responds that the contracting officer had no way of knowing at the time of bid opening that shelf No. L-3612-S was a component of the firm's offered shelving unit, and that the nonresponsive bid could not be amended by information furnished after opening in order to make it responsive. We agree with the agency.

To be responsive to a brand name or equal solicitation, a bid offering an allegedly equal product must contain sufficient descriptive material to permit the contracting officer to assess whether the offered alternative possesses each salient characteristic of the brand name product. Clearr Corp., B-208929, June 21, 1983, 83-2 CPD 8. It is not enough that the bidder believes that the product is equal, or that the offered item might actually function as well as the brand name unit. A. A. Lasher, Inc., B-193932, March 14, 1979, 79-1 CPD 182. Where there is insufficient data in the bid to show the offered item in fact conforms, the bid must be rejected, since a non-responsive bid cannot be accepted. Clearr Corp., supra; Sprague & Henwood, Inc., B-201028, April 6, 1981, 81-1 CPD 260.

The bidder bears the responsibility for preparing and submitting a proper, responsive bid. See Professional Cleaning Janitorial Services, B-209755, November 30, 1982, 82-2 CPD 493. Our examination of the descriptive literature that The Library Store submitted with its bid reveals that the item number for a particular shelving unit expressed the specific dimensions of that unit. For example, a shelving unit identified as L-90-3625 would be 90 inches high, 36 inches wide, and 25 inches deep. The units offered for this procurement, which were specially made, had the designation L-101-3721, apparently signifying dimensions of 101" x 37" x 21". We note that these dimensions seemingly do not conform with the salient characteristics, which specified that overall dimensions should be 101" x 35" x 10". In any event, as indicated above, the manufacturer's letter accompanying the bid identified the shelves by the designation L-3612-S which, in view of our analysis, should mean that the shelf width and depth dimensions were 36" x 12", and therefore incompatible with the offered shelving unit width and depth dimensions of 37" x 21". Although it is not clear that the contracting officer made this same observation, we do not believe that it was unreasonable for her to conclude that the shelves identified in the manufacturer's letter as L-3612-S may not have been components of the units identified in the bid as L-101-3721.

Moreover, even if the shelves in question actually are compatible, this certainly was not clear from the bid, and was not made known to the contracting officer until well after bid opening. It is well-established that a nonresponsive bid may not be amended after bid opening in order to make it responsive. General Electric Company, B-184873, May 4, 1976, 76-1 CPD 298.

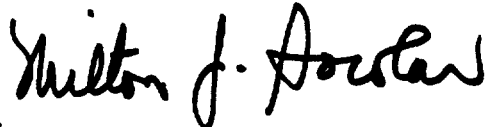
Therefore, we can find nothing objectionable in the contracting officer's rejection of the bid as nonresponsive,¹ nor in her subsequent cancellation of the solicitation. The two other firms have not protested the rejection

¹The agency also asserts, and the firm denies, that the bid did not meet other required characteristics of the brand name. This dispute is academic, however, since the offer had to meet all the salient characteristics to be responsive. See Squibb-Vitatek, Inc., B-205306, July 27, 1982, 82-2 CPD 81.

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of their bids, and where all bids under an IFB properly have been rejected as nonresponsive, such cancellation is appropriate. Kahn Instruments, Inc., B-211090, June 17, 1983, 83-1 CPD 664.

The protest is denied.

for 
Comptroller General
of the United States